THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.13506 OF 1994

Date: 07.02.2006

Between:

Sri Bobbadi Ananda Rao, Late S/o Ramulu, aged 29 years, Driver, Balala Streela Sikshana Kendram, Vizianaaram.

… Petitioner

and

1. The Managing Director, Andhra Pradesh Women's Co-operative Finance Corporation Limited, Ameerpet Behind Saradha Studios, Hyderabad – 500 038 and another.

… Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.13506 OF 1994

ORDER:

Questioning the action of the respondents in terminating his service, vide proceedings dated 06.07.1994, and for a consequential direction to regularize his services as a driver in the office of the 2nd respondent, the petitioner has approached this Court by way of the present writ petition.

2. Facts, to the extent necessary for this writ petition, are that the petitioner, who belongs to B.C-D category, was selected and appointed as a driver in the office of the 2nd respondent in January 1991. It is the case of the petitioner that he had put in service as a driver for 602 days upto 30.06.1994. The 1st respondent issued memo dated 06.07.1994 to all pranganam officers of Visakhapatnam, Nellore and other Districts directing termination of the

employees who were continuing on daily wages. It is these proceedings dated 06.07.1994 which is impugned in this writ petition. According to the petitioner, since he was appointed by selection, he has passed Matriculation and has a licence for driving light motor vehicles and since he was appointed, upon considering all these qualifications, and inasmuch as he has put in more than 240 days service in a regular post, his services cannot be retrenched. Petitioner would contend that since he was selected for a regular post calling him again for selection for the very same post would be arbitrary. Petitioner lays claim for regularization on the basis of his having continued in service for a period of more than 240 days.

3. This Court, by order in W.P.M.P.No. 16515 of 1994 dated 26.07.1994, directed that the petitioner be continued in service till vacancies were filled up pursuant to the impugned order and to consider the case of the petitioner provided he satisfied the requisite qualification.

4. In the Counter-affidavit, filed on behalf of the respondents, it is stated that the services of the petitioner was engaged as a driver on daily wages with effect from January 1991 and he was paid wages as fixed by the District Collector, from time to time. It is stated that in view of the directions of the 1st respondent, that the vacant posts of drivers be filled up calling for applications through the Employment Exchange as per the qualifications prescribed by the Government and that the services of the petitioner must be terminated, the petitioner's services were sought to be terminated. Petitioner's contention that he was appointed after selection is denied. It is also stated that there is no sanctioned post of drivers in the Corporation and as such the question of regularization of the petitioner's services as driver does not arise.

5. In the reply filed on behalf of the petitioner, it is stated that one Sri P. Suryanarayana, driver, who is similarly situated as that of the petitioner and had completed five years of service was regularised by proceedings dated 24.06.1992.

6. Sri Gudapati Venkateswara Rao, learned Counsel for the petitioner, would submit that pursuant to the interim orders, the petitioner is being continued in service till date. Learned Counsel would contend that since the petitioner was appointed in a regular vacancy, pursuant to a regular selection, he must be

deemed to have been regularly appointed and his continuance on a temporary basis was arbitrary and illegal. Learned Counsel would seek a direction from this Court that the services of the petitioner be regularized as a driver.

7. Sri Gudapati Venkateswara Rao, learned Counsel for the petitioner also placed reliance on the Division Bench judgment of this Court in W.A.No. 637 of 2005 dated 24.03.2005 wherein the order in W.P.No. 834 of 1996 was confirmed inasmuch as there was no representation on behalf of the respondents nor was any counter filed. The order in W.A.No.637 of 2005, confirming the order in W.P.No. 834 of 1996, was passed based on the fact that the respondent had chosen not to appear in the matter nor did they file a counter-affidavit. No reliance can be placed on the said judgment, since it was not an order on merits and as a counter-affidavit has been filed by the respondents in the case on hand.

8. Smt. B. Malleswari, learned Standing Counsel, would place reliance on a Division Bench judgment of this Court in W.A.No. 374 of 2001 and batch 27.04.2001 wherein the scope of G.O.Ms.No. 212 dated 22.04.1994 was considered and it was held that all persons who satisfied the conditions prescribed were entitled to seek and for being considered for regularization of their services. Following the aforesaid judgment of the Division Bench, this writ petition is also disposed of. The respondents shall consider the case of the petitioner for regularization of the services as a driver in terms of the judgment of this Court in W.A.No. 374 of 2001 and batch dated 27.04.2001.

9. The Writ Petition is accordingly disposed of. There shall however be no order as to costs.

Date: 07.02.2006.

_____

RAMESH RANGANATHAN, J

MRKR